

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

708B0585

HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB1292** - 2/4/98

Introduced by: Representatives McNenny, Apa, Broderick, Brooks, Diedrich, Duenwald, Gabriel, Hassard, Jorgensen, Koskan, Kredit, Pederson (Gordon), Putnam, Schrempp, Waltman, Weber, and Wetz and Senators Frederick, Benson, Dunn (Jim), Flowers, Johnson (William), and Kleven

1 FOR AN ACT ENTITLED, An Act to classify certain land as nonagricultural acreage and revise
2 the tax levy for the general fund purposes of a school district.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any agricultural land, as defined in § 10-6-31.3, which sells for more than one hundred fifty
7 percent of its agricultural income value is hereby classified for purposes of ad valorem taxation
8 as a nonagricultural acreage. The agricultural income value shall be determined pursuant to
9 section 2 of this Act.

10 Section 2. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 For the purposes of section 1 of this Act, the agricultural income value shall be determined
13 using capitalized actual annual cash rent. The actual annual cash rent is the actual annual cash
14 rent, excluding the actual per acre tax on agricultural land, determined through an analysis of

1 actual arm's length rental agreements collected within the county in the year prior to the year for
2 which the income value is being determined. The annual cash rent shall be capitalized at eight
3 percent.

4 Section 3. That chapter 10-11 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The secretary of revenue may enter into a contract for the collection of cash rent information
7 by county. Cash rent information shall be adjusted by soil survey statistics if available.

8 Section 4. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Any land which is classified pursuant to this Act shall remain so classified for a minimum of
11 five years. Five years after the land is so classified, the land may be reclassified as agricultural
12 land if the land remains in agricultural use during the five year period and if the owner of the land
13 submits an annual application to the director of equalization. The application shall include
14 verified documentation that the land has been in agricultural use during past year. If the land
15 meets the criteria set forth in § 10-6-31.3, has been in agricultural use for five years, and the
16 application requirement in this section is complied with, the director of equalization may
17 reclassify the nonagricultural acreage as agricultural land.

18 Section 5. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 Land classified pursuant to this Act shall be valued for ad valorem tax purposes at the price
21 for which such land sold multiplied times the level of assessment for nonagricultural property
22 within the county. The value of such land shall be increased or decreased each year by the same
23 percentage that the value of nonagricultural property increases or decreases.

24 Section 6. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
25 follows:

1 If there are less than fifteen sales of agricultural land within a county, the director of
2 equalization shall use sales of agricultural land within the county from previous years or sales of
3 comparable agricultural land within adjoining counties.

4 Section 7. That § 10-12-42 be amended to read as follows:

5 10-12-42. For taxes payable in 1997 and each year thereafter, the levy for the general fund
6 of a school district shall be as follows:

7 (1) The maximum tax levy shall be sixteen dollars and forty-nine cents per thousand
8 dollars of taxable valuation subject to the limitations on agricultural property as
9 provided in subdivision (2) of this section ~~and~~, owner-occupied property as provided
10 for in subdivision (3) of this section, and nonagricultural acreage property as provided
11 for in subdivision (4);

12 (2) The maximum tax levy on agricultural property for such school district shall be five
13 dollars and sixty-six cents per thousand dollars of taxable valuation. If the district's
14 levies are less than the maximum levies as stated in chapter 10-13, the levies shall
15 maintain the same proportion to each other as represented in the mathematical
16 relationship at the maximum levies;

17 (3) The maximum tax levy for an owner-occupied single-family dwelling as defined in
18 § 10-13-40, for such school district may not exceed nine dollars and six cents per
19 thousand dollars of taxable valuation. If the district's levies are less than the maximum
20 levies as stated in chapter 10-13, the levies shall maintain the same proportion to each
21 other as represented in the mathematical relationship at the maximum levies;

22 (4) The maximum tax levy on nonagricultural acreage property for such school district
23 shall be six dollars and sixty-six cents per thousand dollars of taxable valuation. If the
24 district's levies are less than the maximum levies as stated in chapter 10-13, the levies
25 shall maintain the same proportion to each other as represented in the mathematical

1 relationship at the maximum levies.

2 All levies in this section shall be imposed on valuations where the median level of assessment
3 represents eighty-five percent of market value as determined by the Department of Revenue.
4 These valuations shall be used for all school funding purposes. If the district has imposed an
5 excess levy pursuant to ~~§ 10-13-43~~ § 10-12-43, the levies shall maintain the same proportion to
6 each other as represented in the mathematical relationship at the maximum levies in this section.
7 The school district may elect to tax at less than the maximum amounts set forth in this section.

8 Section 8. That § 13-13-10.1 be amended to read as follows:

9 13-13-10.1. Terms used in this chapter mean:

10 (1) "Average daily membership," the average number of kindergarten through twelfth
11 grade pupils enrolled in all schools operated by the school district during the previous
12 regular school year, minus average number of pupils for whom the district receives
13 tuition, except pupils described in subdivision (1A) and plus the average number of
14 pupils for whom the district pays tuition;

15 (1A) Nonresident students who are in the care and custody of the Department of Social
16 Services, the Unified Judicial System, Department of Corrections, or other state
17 agencies and are attending a public school may be included in the average daily
18 membership of the receiving district when enrolled in the receiving district. When
19 counting a student who meets these criteria in its average daily membership, the
20 receiving district may begin the enrollment on the first day of attendance. The district
21 of residence prior to the custodial transfer may not include students who meet these
22 criteria in its average daily membership after the student ceases to attend school in the
23 resident district;

24 (2) "Adjusted average daily membership," calculated as follows:

25 (a) For districts with an average daily membership of two hundred or less, multiply

1 1.2 times the average daily membership;

2 (b) For districts with an average daily membership of less than six hundred, but
3 greater than two hundred, raise the average daily membership to the 0.8293
4 power and multiply the result times 2.98;

5 (c) For districts with an average daily membership of six hundred or more,
6 multiply 1.0 times their average daily membership;

7 (3) "Index factor," is the annual percentage change in the consumer price index for urban
8 wage earners and clerical workers as computed by the Bureau of Labor Statistics of
9 the United States Department of Labor for the year before the year immediately
10 preceding the year of adjustment or three percent, whichever is less;

11 (4) "Per student allocation," for the period January 1, 1997, to June 30, 1997, inclusive,
12 is \$1,675. For school fiscal year 1998, beginning on July 1, 1997, the per student
13 allocation shall be \$3,350 increased by the index factor. Each school fiscal year
14 thereafter, the per student allocation shall be the previous fiscal year's per student
15 allocation increased by the index factor;

16 (5) "Local need," the per student allocation multiplied by the adjusted average daily
17 membership;

18 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by
19 applying the following levies established pursuant to § 10-12-42:

20 ~~———— (a) The levy for school district purposes is sixteen dollars and forty-nine cents per~~
21 ~~thousand dollars of taxable valuation subject to the limitations on agricultural~~
22 ~~property as provided in subsection (b) and owner-occupied property as~~
23 ~~provided in subsection (c);~~

24 ~~———— (b) The tax levy on agricultural property for the school district is five dollars and~~
25 ~~sixty-five cents per thousand dollars of taxable valuation;~~

1 ~~(c) The tax levy for owner-occupied single-family dwelling for the school district~~
2 ~~is nine dollars and six cents per thousand dollars of taxable valuation.~~

3 Section 9. That section 10 of chapter 98 of the 1997 Session Laws be amended to read as
4 follows:

5 13-13-10.1. Terms used in this chapter mean:

6 (1) "General enrollment average daily membership," the average number of resident and
7 nonresident kindergarten through twelfth grade pupils enrolled in all schools operated
8 by the school district during the previous regular school year, minus average number
9 of pupils for whom the district receives tuition, except pupils described in subdivision
10 (1A) and plus the average number of pupils for whom the district pays tuition;

11 (1A) Nonresident students who are in the care and custody of the Department of Social
12 Services, the Unified Judicial System, the Department of Corrections, or other state
13 agencies and are attending a public school may be included in the average daily
14 membership of the receiving district when enrolled in the receiving district. When
15 counting a student who meets these criteria in its general enrollment average daily
16 membership, the receiving district may begin the enrollment on the first day of
17 attendance. The district of residence prior to the custodial transfer may not include
18 students who meet these criteria in its general enrollment average daily membership
19 after the student ceases to attend school in the resident district;

20 (2) "Adjusted average daily membership," calculated as follows:

21 (a) For districts with a general enrollment average daily membership of two
22 hundred or less, multiply 1.2 times the general enrollment average daily
23 membership;

24 (b) For districts with a general enrollment average daily membership of less than
25 six hundred, but greater than two hundred, raise the general enrollment average

1 daily membership to the 0.8293 power and multiply the result times 2.98;

2 (c) For districts with a general enrollment average daily membership of six hundred
3 or more, multiply 1.0 times their general enrollment average daily membership;

4 (3) "Index factor," is the annual percentage change in the consumer price index for urban
5 wage earners and clerical workers as computed by the Bureau of Labor Statistics of
6 the United States Department of Labor for the year before the year immediately
7 preceding the year of adjustment or three percent, whichever is less;

8 (4) "Per student allocation," for the period January 1, 1997, to June 30, 1997, inclusive,
9 is \$1,675. For school fiscal year 1998, beginning on July 1, 1997, the per student
10 allocation shall be \$3,350 increased by the index factor. Each school fiscal year
11 thereafter, the per student allocation shall be the previous fiscal year's per student
12 allocation increased by the index factor;

13 (5) "Local need," the per student allocation multiplied by the adjusted average daily
14 membership;

15 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by
16 applying the following levies established pursuant to § 10-12-42:

17 ~~———— (a) — The levy for school district purposes is sixteen dollars and forty-nine cents per~~
18 ~~thousand dollars of taxable valuation subject to the limitations on agricultural~~
19 ~~property as provided in subsection (b) and owner-occupied property as~~
20 ~~provided in subsection (c);~~

21 ~~———— (b) — The tax levy on agricultural property for the school district is five dollars and~~
22 ~~sixty-six cents per thousand dollars of taxable valuation;~~

23 ~~———— (c) — The tax levy for owner-occupied single-family dwelling for the school district~~
24 ~~is nine dollars and six cents per thousand dollars of taxable valuation.~~

1 **BILL HISTORY**

2 1/26/98 First read in House and referred to Taxation. H.J. 227

3 2/3/98 Scheduled for Committee hearing on this date.

4 2/3/98 Taxation Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 359